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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/808,826 | 03/16/2001 | Dhyaneswar B. Chawan | | 5637 |

7590 10/01/2002

Dennis H. Rainear
13400 College Valley Lane
Richmond, VA 23233

EXAMINER

WEDDINGTON, KEVIN E

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

1614

DATE MAILED: 10/01/2002

4

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/808,826

Applicant(s)

Chawan

Examiner
Kevin E. Weddington

Art Unit
1614



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claims 1-13 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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DETAILED ACTION

Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-4 and 12 are drawn to methods of reducing the glycemic index in a patient suffering from type 2 diabetes; providing nutrition to a diabetic patient; substantially reducing the blood glucose level in a person; and controls the glucose release initiated by enzymatic action, classified in class 514, subclasses 58, 59, 60 and 866.
 - II. Claims 5, 6 and 13 are drawn to methods for controlling the membrane structure of a starch granule; and for starch cell wall strengthening in a starch-containing food, classified in class 514, subclasses 58 and 60.
 - III. Claims 7-9 are drawn to a meal composition, classified in class 426, various subclasses .
 - IV. Claims 10 and 11 are drawn to a food composition and a use of the food composition, classified in class 514, subclass 775 and 866.

The four inventions are independent and distinct, each from the other as they have acquired a separate status in the art as shown by their different classification and a separate subject matter for inventive effort. Further, a reference which anticipates any one of the above inventions would neither anticipate or make obvious of the other inventions. Each such


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invention is capable of supporting its own patent. For these reasons, the restriction requirement is proper.

To be complete, applicants' response must include a provisional election even though the requirement may be traverse.

The applicants are required to elect a single invention for examination purposes.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner K. Weddington whose telephone number is (703) 308-1235.


Kevin E. Weddington
Primary Examiner
Art Unit 1614

K. Weddington

September 27, 2002